

AMENDED IN ASSEMBLY MAY 10, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1651**

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**Introduced by Assembly Member Arambula**

February 23, 2007

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An act to add Sections 17053.71 and 23671 to the Revenue and Taxation Code, relating to environmental quality and repeal Sections 17053.97 and 23665 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1651, as amended, Arambula. ~~Environmental quality: tax credit: qualified green machinery. Taxation: tax credits: qualified capital equipment.~~

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, *under both laws*, authorize a credit against those taxes for each taxable year beginning on or after January 1, 2007 2008, and before January 1, 2013, in an amount equal to a specified percentage of the amount paid or incurred during the taxable year by a qualified green business, as defined, for purchasing or upgrading qualified green machinery, as defined for qualified capital equipment certified by the California Climate Action Registry or the State Air Resources Board to result in measurable reductions in greenhouse gases.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17053.97 is added to the Revenue and  
2     Taxation Code, to read:  
3     17053.97. (a) For taxable years beginning on or after January  
4     1, 2008, and ending before January 1, 2013, there shall be allowed  
5     as a credit against the “net tax,” as defined in Section 17039, to  
6     a qualified taxpayer an amount as provided in subdivision (b) for  
7     the qualified costs paid or incurred for qualified capital equipment  
8     placed in service in this state.  
9     (b) The credit allowed by subdivision (a) shall be in an amount  
10    as follows:  
11    (1) For taxable years beginning on or after January 1, 2008,  
12    and before January 1, 2010, 15 percent of the qualified costs.  
13    (2) For taxable years beginning on or after January 1, 2010,  
14    and before January 1, 2012, 8 percent of the qualified costs.  
15    (3) For taxable years beginning on or after January 1, 2012,  
16    and before January 1, 2013, 3 percent of the qualified costs.  
17    (c) For purposes of this section:  
18    (1) “Capitalized labor costs” means costs for labor directly  
19    allocable to the construction or installation of qualified capital  
20    property that is properly charged to the capital account of the  
21    taxpayer.  
22    (2) “Eligible greenhouse gas reduction” means a measurable  
23    reduction in the greenhouse gas emissions of the facility in which  
24    the qualified capital equipment is placed in service and maintained,  
25    beyond the reductions in the qualified taxpayer’s greenhouse gas  
26    emission of that facility as required by law.  
27    (3) “Greenhouse gas” has the same meaning as defined in  
28    Section 38505 of the Health and Safety Code.  
29    (4) “Purchase” means any transaction that is treated as a sale  
30    under Part 1 (commencing with Section 6001) of Division 2.  
31    (5) “Qualified capital equipment” means equipment that meets  
32    all of the following requirements:  
33    (A) Is tangible personal property as defined in Section  
34    1245(a)(3)(A) of the Internal Revenue Code.

1     (B) *Is newly constructed or fabricated and not reconstructed*  
2 *or refabricated.*

3     (C) *Is used exclusively in California by the qualified taxpayer*  
4 *who first placed the equipment in service.*

5     (D) *Is certified by the California Climate Action Registry or the*  
6 *State Air Resources Board that it has been placed in service and*  
7 *is operational.*

8     (E) *Is certified by the California Climate Action Registry or the*  
9 *State Air Resources Board that its operation will result in*  
10 *measurable reductions in greenhouse emissions.*

11     (F) *Produces an eligible greenhouse gas reduction.*

12     (G) *The original use of the equipment commences with the*  
13 *qualified taxpayer.*

14     (6) *“Qualified cost” means any costs that satisfies all of the*  
15 *following conditions:*

16     (A) *Is a cost paid or incurred on or after January 1, 2008, and*  
17 *before January 1, 2013, for the construction or purchase,*  
18 *including, installation costs, of qualified capital equipment during*  
19 *the taxable year.*

20     (B) *Is an amount, other than capitalized labor costs, upon which*  
21 *the qualified taxpayer has paid, directly or indirectly, as a*  
22 *separately stated contract amount or as determined from the*  
23 *records of the taxpayer, sales or use tax imposed under Part 1*  
24 *(commencing with Section 6001) of Division 2.*

25     (C) *Is properly charged to the capital account of the taxpayer.*

26     (7) *“Qualified taxpayer” means a taxpayer who reports their*  
27 *greenhouse gas emissions, either on a voluntary or mandatory*  
28 *basis, to the California Climate Action Registry or the State Air*  
29 *Resources Board.*

30     (d) *For qualified capital equipment that produces measurable*  
31 *reductions in greenhouse gas emissions as both required by law*  
32 *and beyond those requirements, the amount of the credit allowed*  
33 *by this section is limited to an amount in excess of standard costs*  
34 *for equipment required to meet existing law or regulations. The*  
35 *State Air Resources Board shall promulgate a rule or regulation*  
36 *necessary to establish a standard cost for equipment that meets*  
37 *existing requirements, whether in law or by regulation.*

38     (e) *In the case where the credit allowed by this section exceeds*  
39 *the “net tax,” the excess may be carried over to reduce the “net*

1 tax” in the following year, and the succeeding seven years if  
2 necessary, until the credit is exhausted.

3 (f) This section shall remain in effect only until December 1,  
4 2013, unless a later enacted statute, which is enacted before  
5 December 1, 2013, deletes or extends that date.

6 SEC. 2. Section 23665 is added to the Revenue and Taxation  
7 Code, to read:

8 23665. (a) For taxable years beginning on or after January  
9 1, 2008, and ending before January 1, 2013, there shall be allowed  
10 as a credit against the “tax,” as defined in Section 23036, to a  
11 qualified taxpayer an amount as provided in subdivision (b) for  
12 the qualified costs paid or incurred for qualified capital equipment  
13 placed in service in this state.

14 (b) The credit allowed by subdivision (a) shall be in an amount  
15 as follows:

16 (1) For taxable years beginning on or after January 1, 2008,  
17 and before January 1, 2010, 15 percent of the qualified costs.

18 (2) For taxable years beginning on or after January 1, 2010,  
19 and before January 1, 2012, 8 percent of the qualified costs.

20 (3) For taxable years beginning on or after January 1, 2012,  
21 and before January 1, 2013, 3 percent of the qualified costs.

22 (c) For purposes of this section:

23 (1) “Capitalized labor costs” means costs for labor directly  
24 allocable to the construction or installation of qualified capital  
25 property that is properly charged to the capital account of the  
26 taxpayer.

27 (2) “Eligible greenhouse gas reduction” means a measurable  
28 reduction in the greenhouse gas emissions of the facility in which  
29 the qualified capital equipment is placed in service and maintained,  
30 beyond the reductions in the qualified taxpayer’s greenhouse gas  
31 emission of that facility as required by law.

32 (3) “Greenhouse gas” has the same meaning as defined in  
33 Section 38505 of the Health and Safety Code.

34 (4) “Purchase” means any transaction that is treated as a sale  
35 under Part 1 (commencing with Section 6001) of Division 2.

36 (5) “Qualified capital equipment” means equipment that meets  
37 all of the following requirements:

38 (A) Is tangible personal property as defined in Section  
39 1245(a)(3)(A) of the Internal Revenue Code.

1     (B) *Is newly constructed or fabricated and not reconstructed*  
2     *or refabricated.*

3     (C) *Is used exclusively in California by the qualified taxpayer*  
4     *who first placed the equipment in service.*

5     (D) *Is certified by the California Climate Action Registry or the*  
6     *State Air Resources Board that it has been placed in service and*  
7     *is operational.*

8     (E) *Is certified by the California Climate Action Registry or the*  
9     *State Air Resources Board that its operation will result in*  
10    *measurable reductions in greenhouse emissions.*

11    (F) *Produces an eligible greenhouse gas reduction.*

12    (G) *The original use of the equipment commences with the*  
13    *qualified taxpayer.*

14    (6) *“Qualified cost” means any costs that satisfies all of the*  
15    *following conditions:*

16    (A) *Is a cost paid or incurred on or after January 1, 2008, and*  
17    *before January 1, 2013, for the construction or purchase,*  
18    *including, installation costs, of qualified capital equipment during*  
19    *the taxable year.*

20    (B) *Is an amount, other than capitalized labor costs, upon which*  
21    *the qualified taxpayer has paid, directly or indirectly, as a*  
22    *separately stated contract amount or as determined from the*  
23    *records of the taxpayer, sales or use tax imposed under Part 1*  
24    *(commencing with Section 6001) of Division 2.*

25    (C) *Is properly charged to the capital account of the taxpayer.*

26    (7) *“Qualified taxpayer” means a taxpayer who reports their*  
27    *greenhouse gas emissions, either on a voluntary or mandatory*  
28    *basis, to the California Climate Action Registry or the State Air*  
29    *Resources Board.*

30    (d) *For qualified capital equipment that produces measurable*  
31    *reductions in greenhouse gas emissions as both required by law*  
32    *and beyond those requirements, the amount of the credit allowed*  
33    *by this section is limited to an amount in excess of standard costs*  
34    *for equipment required to meet existing law or regulations. The*  
35    *State Air Resources Board shall promulgate a rule or regulation*  
36    *necessary to establish a standard cost for equipment that meets*  
37    *existing requirements, whether in law or by regulation.*

38    (e) *In the case where the credit allowed by this section exceeds*  
39    *the “tax,” the excess may be carried over to reduce the “tax” in*

1 *the following year, and the succeeding seven years if necessary,*  
2 *until the credit is exhausted.*

3 *(f) This section shall remain in effect only until December 1,*  
4 *2013, unless a later enacted statute, which is enacted before*  
5 *December 1, 2013, deletes or extends that date.*

6 ~~SECTION 1. Section 17053.71 is added to the Revenue and~~  
7 ~~Taxation Code, to read:~~

8 ~~17053.71. (a) For each taxable year beginning on or after~~  
9 ~~January 1, 2007, there shall be allowed as a credit against the “net~~  
10 ~~tax,” as defined in Section 17039, an amount equal to the amount~~  
11 ~~paid or incurred during the taxable year by a qualified green~~  
12 ~~business for purchasing or upgrading qualified green machinery.~~

13 ~~(b) For purposes of this section, all of the following apply:~~

14 ~~(1) “Qualified green business” means a person or entity that~~  
15 ~~meets both of the following criteria:~~

16 ~~(A) The person or entity has never been fined for an~~  
17 ~~environmental impropriety.~~

18 ~~(B) The person or entity is engaged in the conduct of a trade or~~  
19 ~~business within an enterprise zone designated pursuant to Chapter~~  
20 ~~12.8 (commencing with Section 7070) of Division 7 of Title 1 of~~  
21 ~~the Government Code.~~

22 ~~(2) “Qualified green machinery” means manufacturing~~  
23 ~~machinery that, as purchased or upgraded, meets all of the~~  
24 ~~following criteria:~~

25 ~~(A) The machinery is more fuel efficient than the industry~~  
26 ~~average for the machinery.~~

27 ~~(B) The machinery releases less carbon dioxide than the industry~~  
28 ~~average for the machinery.~~

29 ~~(C) The machinery does not release ozone depleting substances.~~

30 ~~(e) Any deduction otherwise allowed under this part for any~~  
31 ~~amount paid or incurred by the taxpayer upon which the credit is~~  
32 ~~based shall be reduced by the amount of the credit allowed under~~  
33 ~~this section.~~

34 ~~(d) In the case where the credit allowed by this section exceeds~~  
35 ~~the “net tax,” the excess may be carried over to reduce the “net~~  
36 ~~tax” in the following year, and succeeding years if necessary, until~~  
37 ~~the credit is exhausted.~~

38 ~~SEC. 2. Section 23671 is added to the Revenue and Taxation~~  
39 ~~Code, to read:~~

1     ~~23671. (a) For each taxable year beginning on or after January~~  
2     ~~1, 2007, there shall be allowed as a credit against the “tax,” as~~  
3     ~~defined in Section 23036, an amount equal to the amount paid or~~  
4     ~~incurred during the taxable year by a qualified green business for~~  
5     ~~purchasing or upgrading qualified green machinery.~~

6     ~~(b) For purposes of this section, all of the following apply:~~

7     ~~(1) “Qualified green business” means a person or entity that~~  
8     ~~meets both of the following criteria:~~

9     ~~(A) The person or entity has never been fined for an~~  
10    ~~environmental impropriety.~~

11    ~~(B) The person or entity is engaged in the conduct of a trade or~~  
12    ~~business within an enterprise zone designated pursuant to Chapter~~  
13    ~~12.8 (commencing with Section 7070) of Division 7 of Title 1 of~~  
14    ~~the Government Code.~~

15    ~~(2) “Qualified green machinery” means manufacturing~~  
16    ~~machinery that, as purchased or upgraded, meets all of the~~  
17    ~~following criteria:~~

18    ~~(A) The machinery is more fuel efficient than the industry~~  
19    ~~average for the machinery.~~

20    ~~(B) The machinery releases less carbon dioxide than the industry~~  
21    ~~average for the machinery.~~

22    ~~(C) The machinery does not release ozone depleting substances.~~

23    ~~(e) Any deduction otherwise allowed under this part for any~~  
24    ~~amount paid or incurred by the taxpayer upon which the credit is~~  
25    ~~based shall be reduced by the amount of the credit allowed under~~  
26    ~~this section.~~

27    ~~(d) In the case where the credit allowed by this section exceeds~~  
28    ~~the “tax,” the excess may be carried over to reduce the “tax” in~~  
29    ~~the following year, and succeeding years if necessary, until the~~  
30    ~~credit is exhausted.~~

31    ~~SEC. 3. This act provides for a tax levy within the meaning~~  
32    ~~of Article IV of the Constitution and shall go into immediate effect.~~